



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

DAS/BDM:TRP/SMF  
F. #2016R00467

*271 Cadman Plaza East  
Brooklyn, New York 11201*

July 8, 2024

By ECF

The Honorable James R. Cho  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: In re Forfeiture Order of Tim Leissner  
Miscellaneous Docket No. 23-1505 (MKB) (JRC)

Dear Judge Cho:

The government respectfully writes to request, with the consent of petitioners Russell Simmons (“Simmons”), Kimora Lee Simmons-Leissner (“Lee”), Roger Ng (“Ng”) and Ken Siazon (“Siazon”), an additional 60-day extension (through September 17, 2024) of the period for discovery authorized by the Court as to Simmons’ standing in the above-referenced criminal forfeiture ancillary proceeding.<sup>1</sup> The Court previously granted the government’s request to extend the period for limited discovery until July 17, 2024. For the reasons set forth below, the requested extension is sought to allow the parties sufficient time to complete the current phase of discovery.

As Your Honor is aware, the parties were directed to engage in discovery limited to the threshold issue of whether petitioner Simmons held, as of the date of the filing of his third-party petition, a membership interest in Nu Horizons Investment Group, LLC (“Nu Horizons”) sufficient to confer standing upon him to assert a derivative claim to the shares of Celsius Holdings, Inc. sought for forfeiture by the government.

Since the government filed its joint status letter on June 17, 2024, see ECF No. 66, the government has taken the deposition of Cooley LLP attorney Dave Young and

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<sup>1</sup> Counsel for Petitioner Roger Ng indicated that counsel is amenable to the requested extension, subject to Ng’s approval.

produced additional documents responsive to Simmons' discovery requests. Further, Simmons made an additional document production on July 1, 2024.

As stated in the joint status letter, the government previously noticed a deposition of former Simmons business associate Rich Slomovitz for June 27, 2024. However, counsel for Mr. Slomovitz informed the government on June 20, 2024 that counsel and Mr. Slomovitz were unavailable that date. In addition, Mr. Slomovitz's counsel notified the government that Mr. Slomovitz intended to produce approximately 1,200 documents responsive to a subpoena served upon him by the government. To date, the government is still awaiting Slomovitz's document production, which the government needs to obtain before taking Mr. Slomovitz's deposition.<sup>2</sup>

Likewise, the government intended to take Mr. Simmons' deposition this month. However, due to summer vacation schedules, counsel for various parties are unavailable during the second halves of July and August. To further compound scheduling difficulties, counsel for Mr. Leissner, whose deposition has been noticed by Simmons, has a five-week trial planned that will run through mid-August. In addition, Simmons has noticed a deposition of Ms. Lee, and it is the government's understanding that counsel for Simmons and Lee are conferring regarding the timing and location of Ms. Lee's deposition.

Given these scheduling difficulties, a 60-day extension will allow the parties to complete outstanding depositions and remaining document production in an orderly manner.

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<sup>2</sup> Simmons' July 1, 2024 document production, consisted of approximately 4,000 pages, a portion of which Simmons indicated he had previously received from Slomovitz.

